

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
May 24, 2010

- D057352     Burnett v. The Superior Court of San Diego County/People**  
The petition is denied.
- D057216     In re Smith on Habeas Corpus**  
The petition is denied.
- D054635     People v. Cowan**  
The judgment is reversed and the case is remanded to the trial court with directions to permit Cowan to withdraw his guilty plea, to vacate its order denying the motion to suppress, to enter a new order granting the motion to suppress, and to undertake any other necessary proceedings in accordance with the applicable law.  
Aaron, J.; We Concur: Benke, Acting P.J., McDonald, J.
- D056808     People v. Wynn, Jr.**  
The trial court is directed to (1) modify the judgment to stay the one-year sentence enhancement for personally using a deadly or dangerous weapon (§12022, subd. (b)(1)) applied to the burglary conviction, and to amend the abstract of judgment accordingly; and (2) to modify the abstract of judgment to state that counts 3 and 4 were stricken. The trial court shall forward to the Department of Corrections and Rehabilitation an amended abstract of judgment. In all other respects the judgment is affirmed. CERTIFIED FOR PUBLICATION.  
Irion, J.; We Concur: Huffman, Acting P.J., McIntyre, J.
- D055539     In re Amber M. et al, Juveniles**  
The opinion filed April 27, 2010, is ordered certified for publication.
- D057275     Lewis v. Vorise**  
Because appellant did not timely pay the filing fee, the appeal is dismissed.  
(Cal. Rules of Court, rule 8.100(c)(3).)

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
May 25, 2010

- D056558     Black v. Superior Court of San Diego County/People**  
Let a writ of mandate issue directing the superior court to vacate its December 18, 2009 order denying Black's discovery motion and hold further proceedings consistent with this opinion. The stay issued by this court on January 11, 2010, is vacated. Nares, Acting P.J.; We Concur: McDonald, J., O'Rourke, J.
- D055164     People v. Hadnot**  
The judgment is reversed.  
Huffman, Acting P.J.; We Concur: Haller, J., McDonald, J.
- D056538     McGrath et al. v. Superior Court of San Diego County/Design Line Interiors, Inc., et al.**  
Let a writ of mandate issue directing the superior court to vacate its order dated November 30, 2009, granting summary adjudication and issue a new order consistent with this opinion. The stay order issued January 19, 2010, is vacated. Petitioners shall recover their costs on this petition.  
Nares, Acting P.J.; We Concur: McDonald, J., O'Rourke, J.
- D056646     612 South LLC v. Laconic Limited Partnership**  
The personal judgment against Laconic for any deficiency, and the part of the judgment awarding 612 South its attorney fees and costs are reversed. In all other respects, the judgment is affirmed. The matter is remanded to the trial court to exonerate the appellate bond, and for further proceedings to determine attorney fees and costs. The parties shall bear their own costs on appeal.  
McIntyre, J.; We Concur: McConnell, P.J., Nares, J.
- D054465     Nelson v. Kuebler et al.**  
The judgment is affirmed. Surviving Members are entitled to costs on appeal.  
McDonald, J.; We Concur: Benke, Acting P.J., Irion, J.
- D054447     People v. Lopez**  
The judgment is affirmed.  
Nares, J.; We Concur: Huffman, Acting P.J., O'Rourke, J.
- D055184     People v. Phillips**  
The judgment is affirmed. McDonald, J.; We Concur: Haller, Acting P.J., Aaron, J.
- D053668     People v. Turner**  
**D053684     People v. Turner**  
(Consolidated) The judgment is affirmed.  
O'Rourke, J.; We Concur: Haller, Acting P.J., McDonald, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
May 25, 2010 (Continued)

- D055230     S. M. v. E. P.**  
The trial court's May 4, 2009 restraining order is reversed. S.M.'s appeal from the trial court's May 5, 2009 minute order is dismissed as moot. The parties are to bear their own costs on appeal. CERTIFIED FOR PUBLICATION.  
Aaron, J.; We Concur: McDonald, Acting P.J., Irion, J.
- D054389     Johnson v. Drolson et al.**  
The judgment is affirmed. Johnson is entitled to costs on appeal.  
Aaron, J.; We Concur: Haller, Acting P.J., McDonald, J.
- D055970     People v. Valdez**  
The orders staying the prior prison term enhancement (§667.5) and imposing the restitution fine (§1202.4, subd. (b)) and parole revocation fine (§1202.45) are reversed. In all other respects the judgment is affirmed. The case is remanded to the trial court with directions to (1) dismiss, or impose and execute, a one-year sentence for the prison prior, and (2) impose a restitution fine and a parole revocation fine in a statutorily authorized amount (§§1202.4, subd. (b)(1), 1202.45). The court is directed to amend the abstract of judgment and to forward the amended abstract of judgment to the Department of Corrections and Rehabilitation. Irion, J.; We Concur: Huffman, Acting P.J., Aaron, J.
- D054571     People v. Maldonado**  
Judgment affirmed. Haller, Acting P.J.; We Concur: McDonald, J., Irion, J.
- D056652     Center for Biological Diversity et al. v. County of San Bernardino/Nursery Products, LLC**  
**D056648     Center for Biological Diversity et al. v. County of San Bernardino/Nursery Products, LLC**  
(Consolidated) The judgment and the attorney fees order are affirmed. The matter is remanded to the trial court for its determination of the amount of an award of attorney fees on appeal to Helphinkley. Helphinkley is also entitled to costs on appeal. McConnell, P.J.; We Concur: McIntyre, J., O'Rourke, J.
- D056018     In re R.T., a Juvenile**  
The request for publication of the opinion is denied.
- D056705     In re F.T. et al., Juveniles**  
The appeal is dismissed. Benke, Acting P.J.; We Concur: McIntyre, J., O'Rourke, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
May 25, 2010 (Continued)

**D056879    Chapkis et al. v. Henson**

Upon written request filed by appellant, the appeal is dismissed and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule 8.244(c)(2).)

**D057215    Hiltman et al. v. Superior Court of San Diego County/Farmers Insurance Exchange**

The petition is denied.

**D054685    Plaza Home Mortgage, Inc. v. North American Title Company, Inc.**

The petition for rehearing is denied, as is the request to decertify the opinion.

**D057181    In re Broocker on Habeas Corpus**

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
May 26, 2010

**D055715     Center Associates v. Altman et al.**

Appellant has failed to file a brief after notice given pursuant to California Rules of Court, rule 8.220(a). The appeal is dismissed.

**D050751     People v. Johnson**

In accordance with the California Supreme Court's directions upon transfer, this court vacates its earlier decision in this matter and suspends further proceedings herein pending the finality of proceedings contemplated by *People v. McKee* (2010) 47 Cal.4th 1172.

**D056675     People v. Cole**

Upon filing an abandonment of appeal, the appeal is dismissed and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule 8.315.)

**D055419     Howard et al. v. County of San Diego**

The opinion filed April 29, 2010, is ordered certified for publication.

**D054945     People v. Deloera, Sr.**

The judgments are affirmed. Haller, J.; We Concur: McConnell, P.J., McDonald, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
May 27, 2010

- D057384     Pettis v. Superior Court of San Diego County/People**  
The petition is denied.
- D056566     RP Communities, LLC et al. v. Superior Court of San Diego County/Bonjorno et al.**  
Let a peremptory writ of mandate issue directing the superior court to vacate its ruling denying the Reynolds defendants' motion for a protective order as to the Bonjornos' request No. 21 for production of documents regarding Reynolds's personal financial records for the previous three-year period, and issue a new order consistent with this opinion. In all other respects, the petition is denied. The matter is remanded for further proceedings consistent with this opinion. The stay issued on January 14, 2010, is vacated. Petitioners shall recover their costs on this petition. Nares, Acting P.J.; We Concur: McDonald, J., O'Rourke, J.
- D055552     In re Damian M. a Juvenile**  
The judgment is affirmed.  
Huffman, Acting P.J.; We Concur: Nares, J., O'Rourke, J.
- D054191     Wesbey III et al. v. Toll CA IV, L.P. et al.**  
The order appealed from is reversed. The matter is remanded to the trial court for further proceedings consistent with this opinion. The parties shall bear their own costs on appeal, and we express no opinion regarding any entitlement to attorney fees on appeal. Huffman, J.; We Concur: McConnell, P.J., Aaron, J.
- D057385     Pettis v. Superior Court of San Diego County/People**  
The petition is denied.
- D054550     Villa Vicenza Homeowners Association v. Nobel Court Development, LLC**  
Order affirmed. CERTIFIED FOR PUBLICATION.  
Benke, Acting P.J.; We Concur: Nares, J., McIntyre, J.
- D055460     Diamond et al. v. Selbrede**  
Upon filing a written abandonment of appeal, the appeal is dismissed and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule 8.244(c)(2).)

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE

May 27, 2010 (Continued)

**D056110 In re Maria R. et al. Juveniles**

The judgments as to Guadalupe, Maria and Kelly are affirmed. The jurisdiction order as to George, Jr., is reversed. Because we reverse the jurisdiction order, the disposition order and all subsequent orders as to George, Jr., are vacated. (§§361, subd. (a), 366, subd. (a)(1) [such orders apply only to a child who has been adjudicated dependent].) The court's findings that George sexually abused Guadalupe and Maria constitute a prima facie showing that George, Jr., is a child described by subdivisions (a), (b), (c) or (d) of section 300, and that he is at substantial risk of abuse or neglect. (§355.1, subd. (d)(3).) The court is directed to detain George, Jr., and to order the Agency to obtain a forensic interview of George, Jr., and any other evaluation that the court deems necessary to ensure his safety and well-being. (See §§300.2, 319, subd. (b), 355.1; *In re Kieshia E.*, *supra*, 6 Cal.4th at pp. 76-77.) The court is further directed to grant the Agency leave to amend the petition as to George, Jr., under section 300, subdivision (j) and/or to file a new petition under any applicable subdivision of section 300. (*In re John S.*, *supra*, 88 Cal.App.4th at p. 1145; see, e.g., *In re Amy M.*, *supra*, 232 Cal.App.3d 849.) Any amended or new petition must be filed to allow the court to hear the matter within the time requirements of section 352, as dated from remittitur of this opinion.<sup>14</sup>

---

<sup>14</sup> Nothing in this opinion shall be interpreted to prevent the Agency from relitigating the allegation that George, Jr., is at substantial risk of sexual abuse, based on new evidence. CERTIFIED FOR PUBLICATION

Aaron, J.; We Concur: Huffman, Acting P.J., Haller, J.

**D057402 Crews v. Superior Court of San Diego County/Crews**

The petition for writ of mandate has been read and considered by Justices Huffman, Haller and O'Rourke. The petition is denied.

**D057047 In re Buchanan on Habeas Corpus**

**D057318 In re Buchanan on Habeas Corpus**

(Consolidated) The petitions are denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
May 28, 2010

- D055481     Nautilus General Contractors, Inc. v. Innovative Coatings of Reno, Inc.**  
The order is reversed. The matter is remanded with directions to the trial court to vacate the order staying Nautilus's action and to issue a new order denying Diamond's motion in its entirety, and allowing further appropriate proceedings. Appellant Nautilus is entitled to costs on appeal.  
Huffman, J.; We Concur: McConnell, P.J., McIntyre, J.
- D057418     People v. Thornton**  
The denial of a petition for writ of habeas corpus is not appealable. The appeal filed on May 14, 2010, is dismissed.
- D056896     Tri-City Medical Center v. Workers' Compensation Appeals Board and State Compensation Insurance Fund**  
The petition is denied.
- D057197     In re Hernandez on Habeas Corpus**  
The petition is denied.
- D057390     People v. Hightower**  
A decision of the appellate division of superior court is not reviewable on appeal to a district court of appeal. (Anchor Marine Repair Co. v. Magnan (2001) 93 Cal.App.4th 525, 528.) Review is by petition for certification and transfer. (Cal. Rules of Court, rules 8.1001-8.1018.) The appeal filed on May 7, 2010 is dismissed.